



March 23, 2001

ENGROSSED HOUSE BILL No. 1503

DIGEST OF HB 1503 (Updated March 22, 2001 12:37 PM - DI 44)

Citations Affected: IC 5-14; IC 6-1.1; IC 6-3.5; IC 36-2; IC 36-4.

Synopsis: Local government matters. Allows, rather than requires, a public agency to waive a fee for providing an electronic map if the electronic map will be used for a noncommercial purpose. Extends the 0.1% portion of the Jackson County adjusted gross income tax dedicated for a jail and juvenile detention center for an additional four years. Extends the 0.3% portion of the Pulaski County adjusted gross income tax dedicated for a jail and justice center for an additional 4 years. Allows a county executive to adopt an ordinance approving the payment of certain lawful county expenses, and requires the payment of the expenses to be published. Changes from August 20 to September 20 the date by which employee compensation must be fixed by a third class city. Repeals a requirement that the county recorder retain a real estate sales disclosure form for five years.

Effective: July 1, 2001.

**Ayres, Stevenson, Aguilera,
Goeglein**

(SENATE SPONSORS — SKILLMAN, LAWSON C, ANTICH)

January 11, 2001, read first time and referred to Committee on Local Government.
February 21, 2001, amended, reported — Do Pass.
February 27, 2001, read second time, ordered engrossed.
February 28, 2001, engrossed.
March 5, 2001, read third time, passed. Yeas 96, nays 1.

SENATE ACTION

March 7, 2001, read first time and referred to Committee on Finance.
March 22, 2001, amended, reported favorably — Do Pass.

EH 1503—LS 7016/DI 87+



C
o
p
y

March 23, 2001

First Regular Session 112th General Assembly (2001)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2000 General Assembly.

ENGROSSED HOUSE BILL No. 1503

A BILL FOR AN ACT to amend the Indiana Code concerning state and local administration.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 5-14-3-8, AS AMENDED BY P.L.151-1999,
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2001]: Sec. 8. (a) For the purposes of this section, "state
4 agency" has the meaning set forth in IC 4-13-1-1.
5 (b) Except as provided in this section, a public agency may not
6 charge any fee under this chapter:
7 (1) to inspect a public record; or
8 (2) to search for, examine, or review a record to determine
9 whether the record may be disclosed.
10 (c) The Indiana department of administration shall establish a
11 uniform copying fee for the copying of one (1) page of a standard-sized
12 document by state agencies. The fee may not exceed the average cost
13 of copying records by state agencies or ten cents (\$0.10) per page,
14 whichever is greater. A state agency may not collect more than the
15 uniform copying fee for providing a copy of a public record. However,
16 a state agency shall establish and collect a reasonable fee for copying
17 nonstandard-sized documents.

EH 1503—LS 7016/DI 87+



C
o
p
y

(d) This subsection applies to a public agency that is not a state agency. The fiscal body (as defined in IC 36-1-2-6) of the public agency, or the governing body, if there is no fiscal body, shall establish a fee schedule for the certification, copying, or facsimile machine transmission of documents. The fee may not exceed the actual cost of certifying, copying, or facsimile transmission of the document by the agency and the fee must be uniform throughout the public agency and uniform to all purchasers. As used in this subsection, "actual cost" means the cost of paper and the per-page cost for use of copying or facsimile equipment and does not include labor costs or overhead costs.

(e) If:

(1) a person is entitled to a copy of a public record under this chapter; and

(2) the public agency which is in possession of the record has reasonable access to a machine capable of reproducing the public record;

the public agency must provide at least one (1) copy of the public record to the person. However, if a public agency does not have reasonable access to a machine capable of reproducing the record or if the person cannot reproduce the record by use of enhanced access under section 3.5 of this chapter, the person is only entitled to inspect and manually transcribe the record. A public agency may require that the payment for copying costs be made in advance.

(f) Notwithstanding subsection (b), (c), (d), (g), (h), or (i), a public agency shall collect any certification, copying, facsimile machine transmission, or search fee that is specified by statute or is ordered by a court.

(g) Except as provided by subsection (h), for providing a duplicate of a computer tape, computer disc, microfilm, or similar or analogous record system containing information owned by the public agency or entrusted to it, a public agency may charge a fee, uniform to all purchasers, that does not exceed the sum of the following:

(1) The agency's direct cost of supplying the information in that form.

(2) The standard cost for selling the same information to the public in the form of a publication if the agency has published the information and made the publication available for sale.

(3) In the case of the legislative services agency, a reasonable percentage of the agency's direct cost of maintaining the system in which the information is stored. However, the amount charged by the legislative services agency under this subdivision may not exceed the sum of the amounts it may charge under subdivisions

C
o
p
y



(1) and (2).

(h) This subsection applies to the fee charged by a public agency for providing enhanced access to a public record. A public agency may charge any reasonable fee agreed on in the contract under section 3.5 of this chapter for providing enhanced access to public records.

(i) This subsection applies to the fee charged by a public agency for permitting a governmental entity to inspect public records by means of an electronic device. A public agency may charge any reasonable fee for the inspection of public records under this subsection or the public agency may waive any fee for the inspection.

(j) Except as provided in subsection (k), a public agency may charge a fee, uniform to all purchasers, for providing an electronic map that is based upon a reasonable percentage of the agency's direct cost of maintaining, upgrading, and enhancing the electronic map and for the direct cost of supplying the electronic map in the form requested by the purchaser. If the public agency is within a political subdivision having a fiscal body, the fee is subject to the approval of the fiscal body of the political subdivision.

(k) The fee charged by a public agency under subsection (j) to cover costs for maintaining, upgrading, and enhancing an electronic map ~~shall~~ **may** be waived by the public agency if the electronic map for which the fee is charged will be used for a noncommercial purpose, including the following:

- (1) Public agency program support.
- (2) Nonprofit activities.
- (3) Journalism.
- (4) Academic research.

SECTION 2. IC 6-3.5-1.1-2.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 2.5. (a) This section applies only to a county having a population of more than thirty-seven thousand (37,000) but less than thirty-seven thousand eight hundred (37,800).

(b) The county council of a county described in subsection (a) may, by ordinance, determine that additional county adjusted gross income tax revenue is needed in the county to fund the operation and maintenance of a jail and juvenile detention center opened after July 1, 1998.

(c) Notwithstanding section 2 of this chapter, if the county council adopts an ordinance under subsection (b), the county council may impose the county adjusted gross income tax at a rate of one and one-tenth percent (1.1%) on adjusted gross income. However, a county may impose the county adjusted gross income tax at a rate of one and

C
o
p
y



one-tenth percent (1.1%) for only ~~four (4)~~ **eight (8)** years. After the county has imposed the county adjusted gross income tax at a rate of one and one-tenth percent (1.1%) for ~~four (4)~~ **eight (8)** years, the rate is reduced to one percent (1%). If the county council imposes the county adjusted gross income tax at a rate of one and one-tenth percent (1.1%), the county council may decrease the rate or rescind the tax in the manner provided under this chapter.

(d) If a county imposes the county adjusted gross income tax at a rate of one and one-tenth percent (1.1%) under this section, the revenue derived from a tax rate of one-tenth percent (0.1%) on adjusted gross income:

- (1) shall be paid to the county treasurer;
- (2) may be used only to pay the costs of operating a jail and juvenile detention center opened after July 1, 1998; and
- (3) may not be considered by the state board of tax commissioners in determining the county's maximum permissible property tax levy limit under IC 6-1.1-18.5.

SECTION 3. IC 6-3.5-1.1-3.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 3.5. (a) This section applies only to a county having a population of more than twelve thousand six hundred (12,600) but less than thirteen thousand (13,000).

(b) The county council of a county described in subsection (a) may, by ordinance, determine that additional county adjusted gross income tax revenue is needed in the county to fund the operation and maintenance of a jail and justice center.

(c) Notwithstanding section 2 of this chapter, if the county council adopts an ordinance under subsection (b), the county council may impose the county adjusted gross income tax at a rate of one and three-tenths percent (1.3%) on adjusted gross income. However, a county may impose the county adjusted gross income tax at a rate of one and three-tenths percent (1.3%) for only ~~four (4)~~ **eight (8)** years. After the county has imposed the county adjusted gross income tax at a rate of one and three-tenths percent (1.3%) for ~~four (4)~~ **eight (8)** years, the rate is reduced to one percent (1%). If the county council imposes the county adjusted gross income tax at a rate of one and three-tenths percent (1.3%), the county council may decrease the rate or rescind the tax in the manner provided under this chapter.

(d) If a county imposes the county adjusted gross income tax at a rate of one and three-tenths percent (1.3%) under this section, the revenue derived from a tax rate of three-tenths percent (0.3%) on adjusted gross income:

- (1) shall be paid to the county treasurer;



C
o
p
y

(2) may be used only to pay the costs of operating and maintaining a jail and justice center; and

(3) may not be considered by the state board of tax commissioners under any provision of IC 6-1.1-18.5, including the determination of the county's maximum permissible property tax levy.

(e) Notwithstanding section 3 of this chapter, the county fiscal body may adopt an ordinance under this section before June 1.

SECTION 4. IC 36-2-6-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 4. (a) This section does not apply to a county having a consolidated city.

(b) **Except as provided in section 4.5 of this chapter**, the county executive may allow a claim or order the issuance of a county warrant for payment of a claim only at a regular or special meeting of the executive. The county auditor may issue a county warrant for payment of a claim against the county only if the executive or a court orders him to do so. However, this subsection does not apply to the issuance of warrants related to management of the common or congressional school fund.

(c) The county executive may allow a claim if the claim:

(1) complies with IC 5-11-10-1.6; and

(2) is placed on the claim docket by the auditor at least five (5) days before the meeting at which the executive is to consider the claim.

(d) A county auditor or member of a county executive who violates this section commits a Class C infraction.

(e) A county auditor who violates this section is liable on his official bond for twice the amount of the illegally drawn warrant, which may be recovered for the benefit of the county by a taxpayer of the county. A person who brings an action under this subsection shall give security for costs, and the court shall allow him a reasonable sum, including attorney's fees, out of the money recovered as compensation for his trouble and expense in bringing the action. This compensation shall be specified in the court's order.

(f) If, within sixty (60) days after the county executive allows a claim, a taxpayer of the county demands that the executive refund that allowance to the county, and the executive refuses to do so, the taxpayer may bring an action to recover an illegal, unwarranted, or unauthorized allowance for the benefit of the county. A person who brings an action under this subsection shall give security for costs, and the court shall allow him a reasonable sum, including attorney's fees, out of the money recovered as compensation for his trouble and expense in bringing the action. This compensation shall be specified in

C
o
p
y



the court's order.

SECTION 5. IC 36-2-6-4.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 4.5. (a) A county executive may adopt an ordinance allowing money to be disbursed for lawful county purposes under this section.

(b) Notwithstanding IC 5-11-10, with the prior written approval of the board having jurisdiction over the allowance of claims, the county auditor may make claim payments in advance of board allowance for the following kinds of expenses if the county executive has adopted an ordinance under subsection (a):

- (1) Property or services purchased or leased from the United States government, its agencies, or its political subdivisions.
- (2) License or permit fees.
- (3) Insurance premiums.
- (4) Utility payments or utility connection charges.
- (5) General grant programs where advance funding is not prohibited and the contracting party posts sufficient security to cover the amount advanced.
- (6) Grants of state funds authorized by statute.
- (7) Maintenance or service agreements.
- (8) Leases or rental agreements.
- (9) Bond or coupon payments.
- (10) Payroll.
- (11) State or federal taxes.
- (12) Expenses that must be paid because of emergency circumstances.
- (13) Expenses described in an ordinance.

(c) Each payment of expenses under this section must be supported by a fully itemized invoice or bill and certification by the county auditor.

(d) The county executive or the county board having jurisdiction over the allowance of the claim shall review and allow the claim at its next regular or special meeting following the preapproved payment of the expense.

(e) A payment of expenses under this section must be published in the manner provided under section 3 of this chapter.

SECTION 6. IC 36-4-7-3, AS AMENDED BY P.L.35-1999, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 3. (a) This section does not apply to compensation paid by a city to members of its police and fire departments.

(b) Subject to the approval of the city legislative body, the city

C
o
p
y



1 executive shall fix the compensation of each appointive officer, deputy,
2 and other employee of the city. The legislative body may reduce but
3 may not increase any compensation fixed by the executive.
4 Compensation must be fixed under this section before:

5 (1) ~~August~~ **September** 20 for a third class city; and

6 (2) September 30 for a second class city;
7 of each year for the ensuing budget year.

8 (c) Compensation fixed under this section may not be increased
9 during the budget year for which it is fixed, but may be reduced by the
10 executive.

11 (d) Notwithstanding subsection (b), the city clerk may, with the
12 approval of the legislative body, fix the salaries of deputies and
13 employees appointed under IC 36-4-11-4.

14 SECTION 7. IC 6-1.1-5.5-8 IS REPEALED [EFFECTIVE JULY 1,
15 2001].

C
o
p
y



COMMITTEE REPORT

Mr. Speaker: Your Committee on Local Government, to which was referred House Bill 1503, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 3, line 11, reset in roman "Except as provided in subsection (k),".

Page 3, reset in roman lines 19 through 20.

Page 3, line 21, after "shall" insert "**may**".

Page 3, line 21, reset in roman "be waived by the public agency if the electronic map for which".

Page 3, reset in roman lines 22 through 27.

Page 3, after line 27, begin a new paragraph and insert:

"SECTION 2. IC 6-3.5-1.1-3.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 3.5. (a) This section applies only to a county having a population of more than twelve thousand six hundred (12,600) but less than thirteen thousand (13,000).

(b) The county council of a county described in subsection (a) may, by ordinance, determine that additional county adjusted gross income tax revenue is needed in the county to fund the operation and maintenance of a jail and justice center.

(c) Notwithstanding section 2 of this chapter, if the county council adopts an ordinance under subsection (b), the county council may impose the county adjusted gross income tax at a rate of one and three-tenths percent (1.3%) on adjusted gross income. However, a county may impose the county adjusted gross income tax at a rate of one and three-tenths percent (1.3%) for only ~~four (4)~~ **eight (8)** years. After the county has imposed the county adjusted gross income tax at a rate of one and three-tenths percent (1.3%) for ~~four (4)~~ **eight (8)** years, the rate is reduced to one percent (1%). If the county council imposes the county adjusted gross income tax at a rate of one and three-tenths percent (1.3%), the county council may decrease the rate or rescind the tax in the manner provided under this chapter.

(d) If a county imposes the county adjusted gross income tax at a rate of one and three-tenths percent (1.3%) under this section, the revenue derived from a tax rate of three-tenths percent (0.3%) on adjusted gross income:

- (1) shall be paid to the county treasurer;
- (2) may be used only to pay the costs of operating and maintaining a jail and justice center; and
- (3) may not be considered by the state board of tax commissioners under any provision of IC 6-1.1-18.5, including the determination

EH 1503—LS 7016/DI 87+



copy

of the county's maximum permissible property tax levy.

(e) Notwithstanding section 3 of this chapter, the county fiscal body may adopt an ordinance under this section before June 1.

SECTION 3. IC 36-2-6-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 4. (a) This section does not apply to a county having a consolidated city.

(b) **Except as provided in section 4.5 of this chapter**, the county executive may allow a claim or order the issuance of a county warrant for payment of a claim only at a regular or special meeting of the executive. The county auditor may issue a county warrant for payment of a claim against the county only if the executive or a court orders him to do so. However, this subsection does not apply to the issuance of warrants related to management of the common or congressional school fund.

(c) The county executive may allow a claim if the claim:

- (1) complies with IC 5-11-10-1.6; and
- (2) is placed on the claim docket by the auditor at least five (5) days before the meeting at which the executive is to consider the claim.

(d) A county auditor or member of a county executive who violates this section commits a Class C infraction.

(e) A county auditor who violates this section is liable on his official bond for twice the amount of the illegally drawn warrant, which may be recovered for the benefit of the county by a taxpayer of the county. A person who brings an action under this subsection shall give security for costs, and the court shall allow him a reasonable sum, including attorney's fees, out of the money recovered as compensation for his trouble and expense in bringing the action. This compensation shall be specified in the court's order.

(f) If, within sixty (60) days after the county executive allows a claim, a taxpayer of the county demands that the executive refund that allowance to the county, and the executive refuses to do so, the taxpayer may bring an action to recover an illegal, unwarranted, or unauthorized allowance for the benefit of the county. A person who brings an action under this subsection shall give security for costs, and the court shall allow him a reasonable sum, including attorney's fees, out of the money recovered as compensation for his trouble and expense in bringing the action. This compensation shall be specified in the court's order.

SECTION 4. IC 36-2-6-4.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 4.5. (a) A county executive may adopt an ordinance**



C
o
p
y

allowing money to be disbursed for lawful county purposes under this section.

(b) Notwithstanding IC 5-11-10, with the prior written approval of the board having jurisdiction over the allowance of claims, the county auditor may make claim payments in advance of board allowance for the following kinds of expenses if the county executive has adopted an ordinance under subsection (a):

- (1) Property or services purchased or leased from the United States government, its agencies, or its political subdivisions.
- (2) License or permit fees.
- (3) Insurance premiums.
- (4) Utility payments or utility connection charges.
- (5) General grant programs where advance funding is not prohibited and the contracting party posts sufficient security to cover the amount advanced.
- (6) Grants of state funds authorized by statute.
- (7) Maintenance or service agreements.
- (8) Leases or rental agreements.
- (9) Bond or coupon payments.
- (10) Payroll.
- (11) State or federal taxes.
- (12) Expenses that must be paid because of emergency circumstances.
- (13) Expenses described in an ordinance.

(c) Each payment of expenses under this section must be supported by a fully itemized invoice or bill and certification by the county auditor.

(d) The county executive or the county board having jurisdiction over the allowance of the claim shall review and allow the claim at its next regular or special meeting following the pre-approved payment of the expense.

(e) A payment of expenses under this section must be published in the manner provided under section 3 of this chapter.

SECTION 5. IC 36-4-7-3, AS AMENDED BY P.L.35-1999, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 3. (a) This section does not apply to compensation paid by a city to members of its police and fire departments.

(b) Subject to the approval of the city legislative body, the city executive shall fix the compensation of each appointive officer, deputy, and other employee of the city. The legislative body may reduce but may not increase any compensation fixed by the executive. Compensation must be fixed under this section before:



C
O
P
Y

- (1) ~~August~~ **September** 20 for a third class city; and
(2) September 30 for a second class city;
of each year for the ensuing budget year.
(c) Compensation fixed under this section may not be increased during the budget year for which it is fixed, but may be reduced by the executive.
(d) Notwithstanding subsection (b), the city clerk may, with the approval of the legislative body, fix the salaries of deputies and employees appointed under IC 36-4-11-4.

SECTION 6. IC 6-1.1-5.5-8 IS REPEALED [EFFECTIVE JULY 1, 2001]."

and when so amended that said bill do pass.

(Reference is to HB 1503 as introduced.)

STEVENSON, Chair

Committee Vote: yeas 13, nays 0.

C
o
p
y



COMMITTEE REPORT

Mr. President: The Senate Committee on Finance, to which was referred House Bill No. 1503, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 3, between lines 27 and 28, begin a new paragraph and insert:

"SECTION 2. IC 6-3.5-1.1-2.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 2.5. (a) This section applies only to a county having a population of more than thirty-seven thousand (37,000) but less than thirty-seven thousand eight hundred (37,800).

(b) The county council of a county described in subsection (a) may, by ordinance, determine that additional county adjusted gross income tax revenue is needed in the county to fund the operation and maintenance of a jail and juvenile detention center opened after July 1, 1998.

(c) Notwithstanding section 2 of this chapter, if the county council adopts an ordinance under subsection (b), the county council may impose the county adjusted gross income tax at a rate of one and one-tenth percent (1.1%) on adjusted gross income. However, a county may impose the county adjusted gross income tax at a rate of one and one-tenth percent (1.1%) for only ~~four (4)~~ **eight (8)** years. After the county has imposed the county adjusted gross income tax at a rate of one and one-tenth percent (1.1%) for ~~four (4)~~ **eight (8)** years, the rate is reduced to one percent (1%). If the county council imposes the county adjusted gross income tax at a rate of one and one-tenth percent (1.1%), the county council may decrease the rate or rescind the tax in the manner provided under this chapter.

(d) If a county imposes the county adjusted gross income tax at a rate of one and one-tenth percent (1.1%) under this section, the revenue derived from a tax rate of one-tenth percent (0.1%) on adjusted gross income:

- (1) shall be paid to the county treasurer;
- (2) may be used only to pay the costs of operating a jail and juvenile detention center opened after July 1, 1998; and
- (3) may not be considered by the state board of tax commissioners in determining the county's maximum permissible property tax levy limit under IC 6-1.1-18.5."

Page 6, line 2, delete "pre-approved" and insert "**preapproved**".

C
o
p
y



Renumber all SECTIONS consecutively.
and when so amended that said bill do pass.

(Reference is to HB 1503 as printed February 22, 2001.)

BORST, Chairperson

Committee Vote: Yeas 12, Nays 0.

C
o
p
y

